

Export-Import Bank of the U.S.

§ 404.4

among other things, drafts, memoranda between officials or agencies, Eximbank staff memoranda, opinions and interpretations prepared by Eximbank attorneys or consultants for use of Eximbank, research studies performed internally or under contract for internal management purposes, and internal management reports.

[40 FR 7238, Feb. 19, 1975, as amended at 52 FR 37438, Oct. 7, 1987]

§ 404.4 Public access to information and records.

(a) *Facilities.* Eximbank facilities are available to the public during normal business hours for requesting, inspecting and copying information and records. Reproduction machines will also be available in or through such facilities. The Public Affairs Office is located in Room 1267, 811 Vermont Avenue NW., Washington, DC 20571.

(b) *Materials available in Public Affairs Office.* (1) For the convenience of the public, certain Eximbank materials will be maintained and readily available in the public information office. These will include:

- (i) All Eximbank directives and manuals not exempt from disclosure,
- (ii) Eximbank Rules and Regulations (including Interpretations), and
- (iii) Index of Eximbank materials, including lists of staff directives, forms, reports, and Eximbank official actions.

(2) The public affairs office will, in addition to the above, have normally available, among other things:

- (i) Pamphlets describing Eximbank Programs,
- (ii) Press releases,
- (iii) Names of recipients of Eximbank support and related information not exempt from disclosure,
- (iv) Eximbank's Annual Report to the President and the Congress,
- (v) Routine statistical reports on Eximbank activities,
- (vi) Minutes of Meetings of the Board of Directors, and
- (vii) Blank Eximbank forms.

(c) *Requests for information and records.* Requests for information, records and other materials not readily available at the Public Affairs Office are to be submitted and processed in accordance with the following procedures:

(1) *Form of request.* Each request shall be addressed to the Export-Import Bank of the United States, Attention: Office of the Secretary in Room 933, 811 Vermont Avenue, NW., Washington, DC 20571. The envelope and the letter containing the request must be clearly marked in capital letters as follows: FREEDOM OF INFORMATION ACT REQUEST. A request submitted in an envelope which is not addressed to the Senior Vice President—Research and Communications will not be deemed to have been received by Eximbank until such time as the request is forwarded to such officer. All requests must be in writing and must be marked and addressed as specified in this section.

(2) *Description of material requested.* Each request shall reasonably describe the document or information with respect to names, dates and subject matter to permit it to be located among the records maintained by Eximbank. A request that does not substantially comply with paragraph (c)(2) of this section will not be deemed to have been received by Eximbank until such time as the requester has clarified his request to meet this standard. Eximbank will make every reasonable effort by telephone or by letter to assist the person making the request to be more specific in describing the document or information.

(3) *Notification of Eximbank action.* The person making the request normally will be notified of the availability of the material within 10 working days after the date of receipt of the request. If Eximbank determines to comply in whole or part with a request for records, the information or records shall be made available promptly provided the requirements of paragraph (c)(6) of this section regarding payment of fees are satisfied. Any denial of a request in whole or in part shall be made in writing by the General Counsel or his designee. The letter shall set forth the reasons for the denial. Any person whose request for information has been denied may appeal from such determination in accordance with § 404.5.

(4) *Extension of time.* In certain unusual circumstances, as set forth below, the period of time within which

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Eximbank will respond to an initial request (10 working days) may be extended by an additional 10 working days. A determination that an extension of time to respond to a request is appropriate will be made by the General Counsel or his designee by giving written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances which could necessitate the extension are the following:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(5) *Fees.* A fee will be imposed for Eximbank expenses incurred in searching for, duplicating, tabulating, or compiling the record or information in accordance with the schedule set forth in § 404.6. A letter requesting a document or information should specifically state that all costs involved will be paid or, alternatively, that they will be paid up to a specified limit. If the letter makes no reference to anticipated fees, and the request is expected to involve fees in excess of \$25, or it is estimated by Eximbank that the fee will exceed the dollar limit specified in the request, Eximbank will notify the requester of the estimated fee promptly upon receipt of the request. The request will not be deemed to have been received until Eximbank receives a reply from the requester stating his willingness to pay the estimated fee.

(6) *Deletions.* If it is determined that a portion of a record is exempt from disclosure, any reasonably segregable portion of the record will be provided

the requester after deletion of the exempt portions.

[40 FR 7238, Feb. 19, 1975, as amended at 42 FR 56316, Oct. 25, 1977; 52 FR 37438, Oct. 7, 1987]

§ 404.5 Administrative appeal of refusal to disclose.

(a) *Who may appeal.* Any person whose request for information or records has been denied in whole or in part shall be entitled to submit a written appeal to Eximbank.

(b) *Time for appeal.* An appeal from a denial may be filed with Eximbank anytime following the date of receipt of the initial determination, in cases of denials of an entire request, or from the date of receipt of any records being made available under an initial determination, in cases of partial denials.

(c) *Form of appeal.* An appeal shall be in a letter addressed to the Export-Import Bank of the United States, Attention: President and Chairman, 811 Vermont Avenue, Washington, DC 20571. The envelope and the letter setting forth the appeal shall be clearly marked in capital letters: FREEDOM OF INFORMATION ACT APPEAL. The letter shall reasonably describe the information or records requested, the name and title of the Eximbank official or employee who denied the request, and such other pertinent facts and statements as the appellant may deem appropriate. An appeal submitted in an envelope which is not addressed to the President and Chairman will not be deemed to have been received until such time as the appeal is forwarded to such officer.

(d) *Eximbank decision.* Final Eximbank decision on appeals from denials of requests for information or records shall be made in writing by the President and Chairman or his designee within 20 working days after the date of receipt of the request, unless an extension of up to 10 working days has been deemed necessary in accordance with the procedures set forth in § 404.4(c)(4) of this part. The 10-day extension may be applied to the response to the initial request or to the appeal, or to both, but in no event shall the extension exceed a total of 10 working days. If the decision upholds the denial of the request, the appellant shall be